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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,717	10/17/2005	Frank Schreiber	20797/0204642-US0	6110
7278	7590	12/13/2007		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER NUR, ABDULLAHI	
			ART UNIT	PAPER NUMBER
			2877	
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			12/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,717	Applicant(s) SCHREIBER, FRANK	
	Examiner Abdullahi Nur	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-37 and 41-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-37 and 41-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's argument filed on 9/19/2007 with respect to claims 1-29 is acknowledged.

1. Applicant's arguments with respect to claims 30-37 and 41-58 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 30-37 and 41-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 30 and 58 recite the limitation " a first light blocking and reflecting device configured to block a first spectral region and reflect at least part of an unblocked second spectral region; and a first detection unit including a plurality of first detectors, at least a first one of the first detectors being disposed in a first beam path of the blocked second spectral region, at least a second one of the first detectors being disposed in a second beam path of the reflected first spectral region" in lines 5-9. It appears that the claim contradicts itself. On the one hand, it posits that the "first spectral region" of the beam is blocked by the blocking device and at the same time is reflected and detected by one of the detectors. One of ordinary skill in the art, as optics, per se, would

reasonably interpret that a beam of light is blocked in order not to be detected. Similar contradiction exists for the "second spectral region." Furthermore, it is not clear whether part of the "second spectral region" is also blocked. In addition, it appears that the words "first" and "second" in the claims may have been interchanged. Appropriate correction is required.

4. Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of the claims upon which it depends.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 30 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsunazawa et al (US Patent # 4,070,112) [hereinafter Tsunazawa].
7. As to claims 30 and 58, Tsunazawa teaches an apparatus for the spectral selection and detection of spectral regions of a light beam, the apparatus comprising: a first selection unit including: a first spectral splitting device 15 (Fig.3) configured to spectrally split the light beam; and a first light blocking and reflecting device 20 configured to block a first spectral region and reflect at least part of an unblocked second spectral region; and a first detection unit including a plurality of first detectors 21, 22, at least a first one of the first detectors being disposed 'in a first beam path of the blocked second spectral region, at least a second one. of the first detectors being

disposed in a second beam path of the reflected, first spectral region; each of the first and second first detectors having a respective different detection property or using a respective :different detection method, and each of the first and second first detectors, including at least one of: a photomultiplier configured to detect fluorescence, an arrangement of photodiodes configured for making quick measurements; and an arrangement of avalanche photodiodes configured for detecting weak signals (column 3, lines 33-60).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullahi Nur whose telephone number is (571) 270-1298. The examiner can normally be reached on Monday - Friday, 8 a.m. to 5p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley can be reached on 571-272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

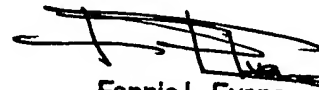
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information
system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abdullahi Nur **AN**
Patent Examiner
AU 2877


Fannie L. Evans
Primary Examiner
AU 2877